

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**  
AUG 17 2017  
Clerk, U.S. District Court  
District Of Montana  
Missoula

JOHN HARTSOE,

Plaintiff,

vs.

STATE OF MONTANA, et al.,

Defendants.

CV 16-87-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order, Findings and Recommendation on June 29, 2017, recommending that Plaintiff John Hartsoe's ("Hartsoe") claims against Defendants Sam and Barbara Marshall be dismissed. Hartsoe failed to timely object to the Findings and Recommendation, and so waived its right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Because the parties are familiar with the facts of this case, they will not be repeated here.

Having reviewed the Findings and Recommendation, the Court finds no clear error in Judge Lynch's conclusion that Hartsoe's claims against the Marshalls should be dismissed. As discussed by Judge Lynch, Hartsoe's current suit raises the same factual allegations as those brought in his prior federal case. *See Hartsoe v. Sam and Barbara Marshall*, Cause No. CV 14-225-M-DLC (D. Mont. September 16, 2014). Because both of these cases arise out of the same nucleus of operative facts, his current claims against the Marshalls are barred by the doctrine of res judicata and must be dismissed. Further, the Court agrees with Judge Lynch that supplemental jurisdiction does not exist over Hartsoe's state law claims because the claims against the Marshalls do not share a common nucleus of operative facts with the federal claims brought against the remaining Defendants in this matter. Thus, these state law claims are dismissed for lack of supplemental jurisdiction.


Accordingly, there being no clear error in Judge Lynch's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 83) is ADOPTED IN FULL;

(2) Plaintiff John Hartsoe's federal claims against Defendants Sam and Barbara Marshall are DISMISSED as barred by the doctrine of res judicata; and

(3) Plaintiff John Hartsoe's independent state law claims against the Marshalls are DISMISSED for lack of supplemental jurisdiction.

Dated this 17<sup>th</sup> day of August, 2017.

  
Dana L. Christensen, Chief Judge  
United States District Court